

MAY 02 2003

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Practitioner's Docket No. SST/1070

EV 183 64 8779

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mueller, Lee W.

Application No.: 09/603,727

Group No.: 3635 3627 com 3/2/03

Filed: 06/23/2000

Examiner: Chilcot, R. E.

For: Pre-Assembled Internal Shear Panel

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O.  
OF ITEMS PREVIOUSLY SUBMITTED  
UNDER 37 C.F.R. SECTION 1.10(e)

1. This is in response to the Office Communications dated April 10, 2003 and April 21, 2003. Copies of Communications are enclosed. After receiving these communications, Applicant realized the Patent Office did not recognize that Applicant timely submitted a Request for Continued Examination under 37 C.F.R. Section 1.114.
2. Applicant asserts that the examiner has failed to enter the Request for Continued Examination filed under 37 C.F.R. 1.114, which was in fact deposited with the P.T.O. with the other papers filed on August 26, 2002, and recognized by the Examiner as being received.
3. Applicant hereby:
  - A. Petitions under 37 C.F.R. Section 1.10(e) and 37 C.F.R. Section 1.182 (if necessary) for a review of the determination that the Request for Continued Examination was omitted.
  - B. Submits the petition fee under 37 section 1.17(h) in case such fee is necessary.
  - C. Submits the attached Evidence of the Deposit of Items.
4. Petition fee for Provisional Petition under 37 section 1.182  
The fee under 37 section 1.17(h) is paid as follows:

Attached is check no. 9527 in the amount of \$130.00

Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 03-4075.

A duplicate of this paper is attached.

05/07/2003 WASFAM2 00000001 09603727

01 FC:1460

130.00 00

(Petition to Establish Prior Receipt in the PTO of Item(s) Previously Submitted—page 1 of 2)

EV 183 64 8779

5. Request for Refund of Provisional Fee under 37 section 1.182

Upon the grant of the petition and the determination by the P.T.O. that omitted items in issue were filed, applicant respectfully requests that the petition fee under 37 section 1.182 be refunded by:

a credit to Deposit Account No. 03-4075.

6. Evidence of the Deposit of Items

Applicant has not included copies of the references submitted with the Information Disclosure Statement on August 26, 2002. This material is voluminous, and the Examiner has not indicated that he did not receive this material. If the Examiner needs additional copies, Applicant will be happy to provide them.

Date: May 2, 2003



Charles R. Cypher  
Registration No. 41694  
Law Offices of James R. Cypher  
405 14th Street, Suite 1607  
Oakland, CA 94612  
(510) 832-4111  
Customer No. 498

Practitioner's Docket No. SST/1070

EV 183 648 779.4

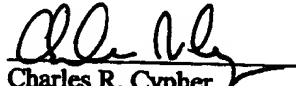


## EVIDENCE OF DEPOSIT OF ITEM(S)

Applicant submits the following evidence that the items listed below, including a Request for Continued Examination under 37 C.F.R. Section 1.114, were in fact deposited with the P.T.O. on August 26, 2002. True copies of the following are attached.

1. Photocopy of the stamped return post card showing receipt of the items on August 26, 2002
2. Photocopy of Cancelled Check No. 8827 in the amount of \$740.00 for the fee for Requesting Continued Examination.
3. Photocopy of the Express Mail label/receipt showing the date of desposit thereon.
4. Photocopy of the Express Mail Certificate
5. Photocopy of the Request for Continued Examination with Express Mail No. indicated.
6. Photocopy of the Submission Under 37 C.F.R. Section 1.114 with Express Mail No. indicated.
7. Photocopy of the Information Disclosure Statement with the Express Mail No. indicated (references ommited).

Date: May 2, 2003

  
Charles R. Cypher  
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EV 073 888922

Practitioner's Docket No. SST/1070

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mueller, Lee W.

Application No.: 09/603,727

Group No.: 3635-3627 on 8/24/02

Filed: June 23, 2000

Examiner: Chilcot, R. E.

For: Pre-Assembled Internal Shear Panel

Box- RCE

Commissioner for Patents

Washington, D.C. 20231

EV 183 648779

REQUEST FOR CONTINUED EXAMINATION (RCE)  
(37 C.F.R. 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. Section 1.114, for the above identified application.

TIME REQUEST IS BEING MADE

2. This request is being submitted:

i. Payment of the issue fee

Prior to payment of issue fee.

ENCLOSURES

3. Enclosed herewith are:

An information disclosure (37 C.F.R. Section 1.98)

Form PTO-1449 (PTO/SB/08A and 08B)

An amendment

FEE FOR REQUEST (37 C.F.R. Section 1.17(e)).

4. This application is on behalf of:

Other than a small entity

Continued Prosecution Request Fee: \$740

**EV 073 888 922**

**FEE FOR CLAIMS**

5. The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below:

**EV 183 64 877 94**

EV 073888922

The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below.

EV 183648779

			OTHER THAN A SMALL ENTITY		
(Col. 1) Claims Remaining After Amendment		(Col. 2) Highest No. Previously Paid For	(Col. 3) Present Extra	Rate	Addit. Fee
Total	26 Minus	26	= 0	x \$18 =	\$0
Indep.	5 Minus	5	= 0	x \$80 =	\$0
First Presentation of Multiple Dependent Claim				+ \$270 =	\$0
				Total Addit. Fee	\$0

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".  
 \*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".  
 The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

No additional fee for claims is required.

**EXTENSION OF TIME**

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**TOTAL FEE(S) DUE**

7. The total fee(s) due is/are:

Continued Prosecution Fee (Section 1.17(e)) \$740.00

Fee(s) for additional claims (Section 1.16(b)-(d)) \$0.00

~~\*\*\*IF GF9-19 Prior Extension = YES\*\*\*~~ *see 8/24/02*

Total Fee(s) Due: \$740.00

**PAYMENT OF FEE(S) DUE**

8. Please pay the fee(s) for this continued examination application as follows:

Check is attached for the sum of \$740.00 *740.00 CAC 8/24/02*

Please charge any required additional fee(s) for Section 1.17(e), Section 1.16(b)-(d) and/or

(Request for Continued Examination (RCE))--page 3 of 4)

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Section 1.17(a)(1)-(4) to Account 03-4075

INVENTORSHIP

EV 183 64 8779

9. This application as amended names as inventors the same inventors as previously designated for the claims.

Date: 8-26-02



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EV 073 888922

Patent: Group 3627

S/N: 09/603,727

- 1 -

"Express Mail" mailing label number EV 073 888922

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to the Commissioner for Patents, Washington, DC 20231

EV 183 648779

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Charles R. Cypher  
Charles R. Cypher, Reg. No. 41,894

Date of Deposit: August 26, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

10 In re patent application of:

Inventors/Assignors:	Lee W. Mueller
Serial No.:	09/603,727
Filed:	June 23, 2000
15 Title:	Pre-Assembled Internal Shear Panel
Examiner:	Richard E. Chilcot, Jr.
Art unit:	3627
Attorney Docket No.:	SST/1070

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SUBMISSION UNDER 37 CFR §1.114

Commissioner for Patents  
Washington, D.C. 20231

25 Sir:

In the Specification

30 Please delete the first paragraph of the specification, and replace it with the following:

35 This application is a continuation of application number 08/985,479 filed on December 5, 1997 which is a continuation of 08/572,519 filed on December 14, 1995, now U.S. Patent No. 5,706,126. The present invention relates to an apparatus for reducing the risk of damage to buildings as a result of lateral forces applied to the building and, in particular, concerns



EV 073 888 922

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Patent: Group 3627

S/N: 09/603,727

- 2 -

- 1 a pre-assembled internal shear panel that can be installed into a building wall to reduce the risk of the building wall becoming dislodged from the foundation as a result of lateral forces such as those generated in earthquakes and high winds.

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### Remarks

With this response, claims 1 — 6, 10 — 14, and 22 — 36 remain pending in the application. Claims 1, 10, 26, 29 and 33 are independent 10 claims.

### Conclusion

It is submitted that claims 1 — 6, 10 — 14, and 22 — 36 are in condition for allowance. Allowance of the claims at an early date is solicited.

- 15 The undersigned wishes to state that if the Examiner has questions about this response, the undersigned would be most happy to try to answer them on the telephone.

Respectfully submitted,

20

Reg. No. 41,694

Date: August 26, 2002

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By:



Charles R. Cypher, Applicant's attorney  
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MARKED-UP VERSION

EV 183 64 8779

This application is a continuation of application number 08/985,479  
filed on December 5, 1997 [12-5-97] which is a continuation of 08/572,519  
5 filed on December 14, 1995 [12-14-95], [N]ow US Patent no. 5,706,126.  
The present invention relates to an apparatus for reducing the risk of damage  
to buildings as a result of lateral forces applied to the building and, in  
particular, concerns a pre-assembled internal shear panel that can be installed  
into a building wall to reduce the risk of the building wall becoming dislodged  
10 from the foundation as a result of lateral forces such as those generated in  
earthquakes and high winds.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,727	06/23/2000	Lee W. Mueller	SST/1070	1985

498 7590 04/21/2003

JAMES R. CYPHER  
405 14TH STREET  
SUITE 1607  
OAKLAND, CA 94612

EXAMINER
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CHILCOT, RICHARD E

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/21/2003

19

EV 183 64 87794

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

APR 25 2003

JAMES R. CYPHER

20-20020122AZ



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARK  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EV183648779

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

19

**Response to Rule 312 Communication**

1. ☒ The amendment filed on 08/28/03 under 37 CFR 1.312 has been considered, and has been:

- a) ☒ entered.
- b) ☐ entered as directed to matter of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

- d) ☐ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.

Explanation:

RECEIVED  
APR 25 2003  
JAMES R. CYPHER

The information disclosure statement filed August 26, 2002, fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it lacks a statement as specified in 37 CFR 1.97(e) and it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

**RECEIVED**  
**APR 14 2003**  
**JAMER R CYPHER**

*Richard Chicot*  
Richard Chicot  
Supervisory Patent Examiner  
Technology Center 2600  
*2600*